

Union Calendar No. 200

106TH CONGRESS
1ST SESSION

H. R. 2436

[Report No. 106-332, Part I]

To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1999

Mr. GRAHAM (for himself, Mr. SMITH of New Jersey, and Mr. CANADY of Florida) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 24, 1999

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 24, 1999

Referral to the Committee on Armed Services extended for a period ending not later than September 29, 1999

SEPTEMBER 29, 1999

Additional sponsors: Mr. PITTS, Mr. SALMON, Mr. BILEY, Mr. SHOWS, Mr. BACHUS, Mr. HUTCHINSON, Mr. LAHOOD, Mr. TANCREDO, Mr. KINGSTON, Mr. HILLEARY, Mr. DEMINT, Mr. GREEN of Wisconsin, Mr. COBURN, Mr. TIAHRT, Mr. HYDE, Mr. LARGENT, Mr. ISTOOK, Mr. HILL of Montana, Mr. ADERHOLT, Mr. SOUDER, Mr. STEARNS, Mr. RAHALL, Mr. BURTON of Indiana, Mr. WELDON of Florida, Mr. HAYES, Mr. BOEHNER, Mr. ENGLISH, Mr. BLUNT, Mr. BARCIA, Mr. PHELPS, Mr. DICKY, Mrs. MYRICK, Mr. GUTKNECHT, Mr. LEWIS of Kentucky, Mr. GOODLATTE, Mr. BARR of Georgia, Mr. FLETCHER, Mr. RYAN of Wisconsin, Mr. SHIMKUS, Mr. HUNTER, Mr. ARMEY, Mr. WATTS of Oklahoma, Mr. WAMP, Mr. DUNCAN, Mr. HOEKSTRA, Mr. LUCAS of Ken-

tucky, Mr. GARY MILLER of California, Mr. MCINTOSH, Mr. CHABOT, Mr. STENHOLM, Mr. RYUN of Kansas, Mr. COSTELLO, Mr. VITTER, Mrs. EMERSON, Mr. OBERSTAR, Mr. HOSTETTLER, Mr. BRADY of Texas, Mr. SKELTON, Mr. SCHAFER, Mr. DELAY, Mr. BARTON of Texas, Mr. NORWOOD, Mr. BAKER, Mr. TALENT, Mr. HALL of Texas, Mr. KNOLLENBERG, Mr. DEAL of Georgia, Mr. COLLINS, Mr. BEREUTER, Mr. COOK, Mr. HULSHOF, Mr. HASTINGS of Washington, Mr. CHAMBLISS, Mr. SHADEGG, Mr. MICA, Mr. HANSEN, Mr. BARTLETT of Maryland, Mr. SANFORD, Mr. BRYANT, Mr. CRANE, Mr. OXLEY, Mr. DOOLITTLE, Mr. JONES of North Carolina, Mr. PACKARD, Mr. NEY, Mr. MURTHA, Mr. SAM JOHNSON of Texas, Mr. HAYWORTH, Mr. WICKER, Mr. CAMP, Mr. STUPAK, and Mr. WOLF

SEPTEMBER 29, 1999

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 1, 1999]

A BILL

To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Unborn Victims of Vio-*
 5 *lence Act of 1999”.*

6 **SEC. 2. PROTECTION OF UNBORN CHILDREN.**

7 *(a) IN GENERAL.—Title 18, United States Code, is*
 8 *amended by inserting after chapter 90 the following:*

1 **“CHAPTER 90A—PROTECTION OF UNBORN**
 2 **CHILDREN**

“Sec.

“1841. Protection of unborn children.

3 **“§ 1841. Protection of unborn children**

4 “(a)(1) Whoever engages in conduct that violates any
 5 of the provisions of law listed in subsection (b) and thereby
 6 causes the death of, or bodily injury (as defined in section
 7 1365) to, a child, who is in utero at the time the conduct
 8 takes place, is guilty of a separate offense under this section.

9 “(2)(A) Except as otherwise provided in this para-
 10 graph, the punishment for that separate offense is the same
 11 as the punishment provided under Federal law for that con-
 12 duct had that injury or death occurred to the unborn child’s
 13 mother.

14 “(B) An offense under this section does not require
 15 proof that—

16 “(i) the person engaging in the conduct had
 17 knowledge or should have had knowledge that the vic-
 18 tim of the underlying offense was pregnant; or

19 “(ii) the defendant intended to cause the death
 20 of, or bodily injury to, the unborn child.

21 “(C) If the person engaging in the conduct thereby in-
 22 tentiously kills or attempts to kill the unborn child, that
 23 person shall be punished as provided under sections 1111,

1 1112, and 1113 of this title for intentionally killing or at-
 2 tempting to kill a human being.

3 “(D) Notwithstanding any other provision of law, the
 4 death penalty shall not be imposed for an offense under this
 5 section.

6 “(b) The provisions referred to in subsection (a) are
 7 the following:

8 “(1) Sections 36, 37, 43, 111, 112, 113, 114, 115,
 9 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1),
 10 and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116,
 11 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203,
 12 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864,
 13 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958,
 14 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191,
 15 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332,
 16 2332a, 2332b, 2340A, and 2441 of this title.

17 “(2) Section 408(e) of the Controlled Substances
 18 Act of 1970 (21 U.S.C. 848(e)).

19 “(3) Section 202 of the Atomic Energy Act of
 20 1954 (42 U.S.C. 2283).

21 “(c) Nothing in this section shall be construed to per-
 22 mit the prosecution—

23 “(1) of any person for conduct relating to an
 24 abortion for which the consent of the pregnant woman

1 *has been obtained or for which such consent is im-*
 2 *plied by law in a medical emergency;*

3 *“(2) of any person for any medical treatment of*
 4 *the pregnant woman or her unborn child; or*

5 *“(3) of any woman with respect to her unborn*
 6 *child.*

7 *“(d) As used in this section, the term ‘unborn child’*
 8 *means a child in utero, and the term ‘child in utero’ or*
 9 *‘child, who is in utero’ means a member of the species homo*
 10 *sapiens, at any stage of development, who is carried in the*
 11 *womb.”.*

12 *(b) CLERICAL AMENDMENT.—The table of chapters for*
 13 *part I of title 18, United States Code, is amended by insert-*
 14 *ing after the item relating to chapter 90 the following new*
 15 *item:*

“90A. Protection of unborn children 1841”.

16 **SEC. 3. MILITARY JUSTICE SYSTEM.**

17 *(a) PROTECTION OF UNBORN CHILDREN.—Subchapter*
 18 *X of chapter 47 of title 10, United States Code (the Uniform*
 19 *Code of Military Justice), is amended by inserting after sec-*
 20 *tion 919 (article 119) the following new section:*

21 **“§919a. Art. 119a. Protection of unborn children**

22 *“(a)(1) Any person subject to this chapter who engages*
 23 *in conduct that violates any of the provisions of law listed*
 24 *in subsection (b) and thereby causes the death of, or bodily*
 25 *injury (as defined in section 1365 of title 18) to, a child,*

1 *who is in utero at the time the conduct takes place, is guilty*
 2 *of a separate offense under this section.*

3 “(2) *The punishment for that separate offense is the*
 4 *same as the punishment provided for that conduct under*
 5 *this chapter had the injury or death occurred to the unborn*
 6 *child’s mother, except that the death penalty shall not be*
 7 *imposed.*

8 “(b) *The provisions referred to in subsection (a) are*
 9 *sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and*
 10 *928 of this title (articles 118, 119(a), 119(b)(2), 120(a),*
 11 *122, 124, 126, and 128).*

12 “(c) *Subsection (a) does not permit prosecution—*

13 “(1) *for conduct relating to an abortion for*
 14 *which the consent of the pregnant woman has been ob-*
 15 *tained or for which such consent is implied by law*
 16 *in a medical emergency;*

17 “(2) *for conduct relating to any medical treat-*
 18 *ment of the pregnant woman or her unborn child; or*

19 “(3) *of any woman with respect to her unborn*
 20 *child.*

21 “(d) *In this section, the term ‘unborn child’ means a*
 22 *child in utero.”.*

23 (b) *CLERICAL AMENDMENT.—The table of sections at*
 24 *the beginning of such subchapter is amended by inserting*
 25 *after the item relating to section 919 the following new item:*

“919a. 119a. Protection of unborn children.”.

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